

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON

ARKEMA INC., a Pennsylvania Corporation,  
and GENERAL METALS OF TACOMA, INC.,  
a Washington Corporation,

Plaintiffs,

v.

ASARCO, Inc., a New Jersey Corporation;  
BALFOUR GUTHRIE & CO., LTD., a  
Delaware Corporation; SYGEN  
INTERNATIONAL PLC, an English  
Corporation; ECHO LUMBER CO., an Oregon  
Corporation; GOODWIN JOHNSON (1960)  
LTD., a Canadian Corporation; JOHNSON-  
BYERS, INC., a Washington Corporation; JCI  
JONES CHEMICALS, INC., a/k/a JONES  
CHEMICAL COMPANY, INC., a New York  
Corporation; MILGARD MANUFACTURING  
INC., a Washington Corporation; DONALD E.  
OLINE, a Washington resident; PETROLEUM  
RECLAIMING SERVICE, INC., a Washington  
Corporation; PORTAC, INC., a Washington  
Corporation; and WEYERHAEUSER  
COMPANY, a Washington Corporation;

Defendants.

NO. CV05-5087

**ORDER APPROVING SETTLEMENT AND  
DISMISSING AND BARRING CLAIMS  
AGAINST JCI JONES CHEMICALS, INC.**

The Court, being fully advised in the premises and for good cause shown, hereby grants Plaintiffs' Motion and makes the following findings and order:

**FINDINGS**

1. Arkema, Inc. and General Metals of Tacoma, Inc. ("Plaintiffs") filed a complaint in this case on February 1, 2005, asserting claims for contribution against defendant JCI Jones Chemicals, Inc. (the "Settling Defendant") and other defendants under the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9613(f) and the Washington Model Toxics Control Act ("MTCA"), RCW 70.105D.080, and contractual indemnity. Plaintiffs' claims are based upon response costs they allegedly incurred in responding to the release of hazardous substances to an area known as the Head of the Hylebos which is a portion of the Hylebos Waterway Problem Area located within the Commencement Bay Nearshore/Tideflats Superfund Site, a designated National Priorities List site in Tacoma, Washington (the "Site").

2. Certain defendants in this case have asserted cross-claims for contribution and/or indemnity against other defendants, including the Settling Defendant, under CERCLA, MTCA and other state and federal laws.

3. The Plaintiffs have entered into a good faith settlement agreement dated September 29, 2005, with the Settling Defendant (the "Settlement"). The Settlement releases the Settling Defendant from claims asserted by the Plaintiffs. The Settlement is contingent upon this Court's approval and issuance of an order dismissing and barring claims against the Settling Defendant.

4. Plaintiffs and the Settling Defendant negotiated at arms-length and considered the strengths and risks of their respective cases, evidentiary and legal issues as known at this time, and the expenses of litigation.

5. The Settlement and the application of the principles of section 6 of the Uniform Comparative Fault Act, 12 U.L.A. 126-53 (1996), with respect to the Settlement's effect on

1  
2 nonsettling defendants in this case are fair and consistent with the purposes of CERCLA and the  
3 strong federal policy favoring settlements.  
4

5 **ORDER**

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7 IT IS HEREBY ORDERED that:

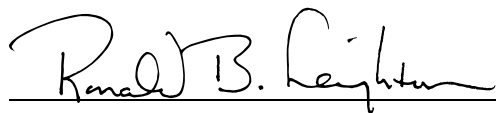
8 1. The Settlement is approved and all claims by Plaintiffs against the Settling Defendant  
9 are hereby DISMISSED, WITH PREJUDICE.

10 2. All claims for contribution against the Settling Defendant relating to the Site under  
11 CERCLA, MTCA or any other applicable federal or state laws are hereby BARRED and  
12 DISMISSED, WITH PREJUDICE, including those claims asserted by the remaining, nonsettling  
13 defendants.  
14

15 3. The principles of Section 6 of the Uniform Comparative Fault Act, 12 U.L.A. 147  
16 (1996) shall govern the effect of the Settlement on Plaintiffs' claims against nonsettling defendants  
17 and that Plaintiffs' recovery, if any, against the nonsettling parties shall be reduced by the Settling  
18 Defendant's equitable and proportionate share of liability for response actions at the Site, as  
19 equitable shares may be determined at trial.  
20

21 Done this 9<sup>th</sup> day of November, 2005.  
22

23 BY THE COURT:

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26

27 RONALD B. LEIGHTON  
28 UNITED STATES DISTRICT JUDGE